

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

KATHY L. AUSTIN,	:	
Plaintiff,	:	Case No. 3:04CV369
vs.	:	District Judge Thomas M. Rose
		Magistrate Judge Sharon L. Ovington
AFFILIATED COMPUTER SERVICE,	:	
INC., et al.,	:	
Defendants.	:	

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**REPORT AND RECOMMENDATIONS<sup>1</sup>**

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This presently stayed case is before the Court upon Defendants' Motion for Order Lifting Stay, Confirming Arbitration Award, and Entering Final Judgment (Doc. #10), to which Plaintiff has not responded.

In the absence of a response by Plaintiff, Defendants' Motion and attached Exhibits establish the following: After the Court referred this case to arbitration, Plaintiff initiated arbitration proceedings before the American Arbitration Association. In August 2006 an arbitrator granted summary judgment in Defendants' favor. In September 2006 the arbitrator entered Final Judgment, denying all relief sought by Plaintiff and closing the arbitration. Copies of the arbitrator's summary-judgment decision and the Final Judgment are attached to Defendants' Motion. *See* Doc. #10.

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

The parties' prior agreement to submit this case to arbitration specified that any federal or state court having jurisdiction over the parties may enter an Order confirming and enforcing an arbitrator's award. *See* Doc. #4, Dispute Resolution Rules, ¶31(D). Given this, and without opposition by Plaintiff to Defendants' present Motion, this Court has statutory authority under 9 U.S.C. §9 to grant Defendants' Motion.

Accordingly, Defendants' Motion for Order Lifting Stay, Confirming Arbitration Award, and Entering Final Judgment is well taken.

**IT IS THEREFORE RECOMMENDED THAT:**

1. Defendants' Motion for Order Lifting Stay, Confirming Arbitration Award, and Entering Final Judgment (Doc. #10) be GRANTED;
2. The prior Order (Doc. #5) staying this case be LIFTED;
3. The award of the arbitrator granting summary judgment to Defendants be CONFIRMED;
4. The Clerk of Court be directed, pursuant to Fed. R. Civ. P. 58, to enter Judgment in favor of Defendants and against Plaintiff on all Plaintiff's claims; and
5. The case be terminated on the docket of this Court.

November 2, 2006

s/Sharon L. Ovington  
Sharon L. Ovington  
United States Magistrate Judge

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).